**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**APPELLATE SIDE**

CIVIL APPLICATION NO. 4553 OF 2006

IN

**FIRST APPEAL (ST.) NO. 27004 OF 2003**

PRABHAKAR JANARDHAN DESHPANDE .. APPLICANT

Versus

THE MAHARASHTRA STATE ROAD TRANSPORT CORPN. & ORS. .. RESPONDENTS

Mr. Ajit Kenjale for applicant
Mr.C.M.Lokesh i/b G.S.Hegde for R-1

CORAM:-SMT. RANJANA DESAI &
SMT. V.K. TAHILRAMANI, JJ.
DATED:-12/10/2006

P.C.

. By order dated 17/5/03 Motor Accident Claims Tribunal, Satara held that the petitioner is entitled to claim Rs.8,81,198/- from opponents 2 to 4. Out of that amount original respondent 4 Maharashtra State Road Transport Corporation, Ratnagiri's liability was to the tune of Rs.1,81,841/-.

2. On 3/3/06 this court issued notice to the respondents. This court ordered the original respondent 4 to deposit the decretal amount in the

trial court as per the impugned order. This court ordered that amount shall not be withdrawn until further orders. Subject to this, this court ordered that execution of the impugned order will be stayed. Original respondent 4 has deposited the said amount in the trial court.

3. It appears that before this court's order could reach the trial court, the petitioner withdrew half the amount deposited by original respondent 4 in the trial court. The executing court permitted him to withdraw the amount because order passed by this court was not brought to the notice of the executing court. The original respondent 4 then made an application in the trial court that in view of the order passed by this court, the applicant may be directed to deposit the said amount withdrawn by him in the trial court. It is in these circumstances that the applicant has made this application praying that the said order passed by the trial court be stayed.

4. We have heard the learned counsel for the parties.

5. Since the order passed by us was not pointed

out to the executing court, the executing court permitted the petitioner to withdraw half the amount deposited by the original respondent 4. The executing court, therefore, cannot be faulted for this. Fifty per cent out of the amount deposited by original respondent 4 has already been invested on 9/3/06 in a nationalised bank. In the circumstances of the case, therefore, in our opinion, following order will meet the ends of justice.

a) The applicant shall file an undertaking in this court that in case he loses in the First Appeal he will bring back the amount withdrawn by him out of the amount deposited by the original respondent 4 in the trial court with interest. Undertaking to be filed within eight weeks from today.

b) Fifty per cent of the remaining amount which is invested by the trial court for initial period of five years shall be reinvested by the trial court after five years, if this appeal does not reach hearing, on usual terms. That amount

will abide by the final order passed in this appeal and in view of the fact that some amount has been withdrawn by the applicant it shall not be given to the applicant till the instant appeal is disposed of.

c) Civil application disposed of.

(SMT. RANJANA DESAI,J.)

(SMT.) V.K. TAHILRAMANI, J.)